

405 KAR 1:060. Inspection and enforcement procedures.

RELATES TO: KRS 350.130

STATUTORY AUTHORITY: KRS 350.028

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.028 requires the Environmental and Public Protection Cabinet to adopt rules and administrative regulations for the strip mining of coal. This administrative regulation sets forth procedures for inspection and enforcement.

Section 1. Inspection Procedures. The cabinet shall make such inspections or investigations as it deems necessary to insure compliance with any provision of KRS Chapter 350 and administrative regulations adopted pursuant thereto.

Section 2. Enforcement Procedures. (1) Determination of violations. The cabinet shall determine whether violations of the provisions of KRS Chapter 350 and administrative regulations adopted pursuant thereto have occurred.

(2) Notice of violations. If the cabinet determines that such violations have occurred, the cabinet shall by certified mail (return receipt requested) provide written notice to the operator that such violations have occurred and shall therein stipulate a reasonable time period for the feasible correction of such violations.

(3) Notice of noncompliance, order of suspension.

(a) If any of the requirements of KRS Chapter 350 or rules and administrative regulations adopted pursuant thereto have not been complied with within the time limits set by the cabinet, or by KRS Chapter 350 or administrative regulations adopted pursuant thereto, the cabinet shall cause a notice of noncompliance to be served upon the operator; or where found necessary, the secretary shall, after a hearing (except as provided in KRS 224.071), order the suspension of a permit or operation.

(b) Such notice or order shall be handed to the person in charge of the operation. Such notice or order shall also be handed to the operator in person, or shall be served upon the operator by certified mail (return receipt requested), or by registered mail, addressed to the permanent address shown on the permit application. If no address is shown on the application, then such notice or order shall be mailed to such other address as known to the cabinet.

(c) The notice of noncompliance or order of suspension shall specify in what respects the operator has failed to comply with KRS Chapter 350 or the administrative regulations or orders of the cabinet.

(4) Revocation of permit; termination of operation; forfeiture of bond. If the operator has not reached an agreement with the cabinet or has not complied with the requirements set forth in the notice of noncompliance or order of suspension within the time limits set therein, the permit may be revoked or the operation terminated, after a hearing, by order of the cabinet and the performance bond, if any, shall then be forfeited to the cabinet.

Section 3. Penalties. Any person or operator who violates any of the provisions of KRS Chapter 350 or administrative regulations adopted pursuant thereto, or who fails to perform the duties imposed by such provisions, or who violates any determination or order promulgated pursuant to the provisions of KRS Chapter 350, shall be subject to civil and criminal penalties as set forth in KRS 350.990. (4 Ky.R. 381; eff. 5-3-78; Am. 479; 5 Ky.R. 194; eff. 8-23-78; TAm eff. 8-9-2007.)